

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
HAMMOND DIVISION**

STEPHANIE WILLIAMS and)	
CALTAUN HAMILTON,)	
Plaintiffs,)	
)	
v.)	CAUSE NO.: 2:17-CV-161-JPK
)	
JAMES H. KESSLER and)	
L&L CARTAGE SERVICES, INC.,)	
Defendants.)	
_____)	
)	
L&L CARTAGE SERVICES, INC.,)	
Counter Claimant,)	
)	
v.)	
)	
STEPHANIE WILLIAMS,)	
Counterclaim Defendant.)	

OPINION AND ORDER

This matter is before the Court *sua sponte*. The Court must continuously police its subject matter jurisdiction. *Hay v. Ind. State Bd. of Tax Comm'rs*, 312 F.3d 876, 879 (7th Cir. 2002). The Court must dismiss an action if the Court lacks subject matter jurisdiction. Fed. R. Civ. P. 12(h)(3). Because Plaintiff/Counterclaim Defendant Stephanie Williams and Plaintiff Caltaun Hamilton ("Plaintiffs") failed to properly establish that subject matter jurisdiction exists, Plaintiffs' Complaint is dismissed without prejudice.

Plaintiffs invoked this Court's subject matter jurisdiction via diversity jurisdiction by filing their Complaint in federal court. As the parties seeking federal jurisdiction, Plaintiffs had the burden of establishing that subject matter jurisdiction existed over their claims. *Smart v. Local 702 Int'l Bhd. of Elec. Workers*, 562 F.3d 798, 802-03 (7th Cir. 2009). Having found that the Complaint did not adequately allege Plaintiffs' citizenship for the purpose of establishing diversity

jurisdiction, the Court ordered Plaintiffs to file, on or before July 3, 2019, a supplemental jurisdictional statement. (Op. & Order, ECF No. 36). Plaintiffs failed to file a supplemental jurisdictional statement by that date, and have thus failed to establish that subject matter jurisdiction exists over their claim because the Court cannot determine from the record whether any Plaintiff and any Defendant share a state of citizenship.¹

Accordingly, the Court hereby **DISMISSES without prejudice** Plaintiffs' Complaint [DE 1]. Defendants' Motion to Dismiss for Failure to Prosecute [DE 29] is therefore **DENIED as moot**. Finally, the Counterclaim [DE 24] filed by Defendant/Counter Claimant L&L Cartage Services, Inc. remains pending. The Court **SETS** this case for a telephonic hearing on L&L Cartage Services, Inc.'s Counterclaim [DE 24] on **August 8, 2019, at 10:00 a.m.** (C.S.T.).

So ORDERED this 24th day of July, 2019.

s/ Joshua P. Kolar

MAGISTRATE JUDGE JOSHUA P. KOLAR
UNITED STATES DISTRICT COURT

cc: Pro se Plaintiff/Counterclaim Defendant Stephanie Williams
Pro se Plaintiff Caltaun Hamilton

¹ The citizenship of Plaintiff/Counterclaim Defendant Stephanie Williams was properly alleged in the supplemental jurisdictional statement filed by Defendant/Counter Claimant L&L Cartage Services, Inc. on July 11, 2019. However, because the Court still lacks a proper allegation of Plaintiff Caltaun Hamilton's citizenship, the Court cannot determine whether complete diversity exists.